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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,134	04/06/2006	Jan Rytter	13261.0031USWO	9300
23552 7590 01/21/2010 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER HOOK, JAMES F	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 01/21/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/575,134	<b>Applicant(s)</b> RYTTER, JAN	
	<b>Examiner</b> James F. Hook	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 4, 7, 12, 13 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8-11, 14-24, 26, and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                         |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                             | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                                     | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/6/06; 6/5/06</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of figures 1, 4b, and 7a in the reply filed on October 21, 2009 is acknowledged. The traversal is on the ground(s) that applicants do not agree with or want to be bound by the examiner's rationale in proposing the request for restriction. This is not found persuasive because such is not a pertinent argument where there are no arguments that specifically point out why the search and examination of multiple species that are intertwined would not put an undue burden on the examiner, therefore the traversal is not persuasive.

The requirement is still deemed proper and is therefore made FINAL.

Claims 4, 7, 12, and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 21, 2009.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Denmark on October 31, 2003. It is noted, however, that applicant has not filed a complete certified copy of the Danish application as required by 35 U.S.C. 119(b). Specifically the cover sheet and copy of the ribboned first page were not provided with the Foreign Priority Document therefore its authenticity cannot be determined at this time. If applicant has a photocopy of this complete document it

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requested that either a full copy or at least the cover and first page be provided so that a complete copy of the document exists in the file and so that the examiner can confirm it's authenticity.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, 8-11, 14-24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glejbol in view of Greco. The reference to Glejbol discloses the recited flexible pipe for transporting fluid comprising a liner 2,3, an armoring layer 5,6, a water impermeable layer 10, an outer protective sheath formed from helically wound composite wires in two layers that are oppositely wound 7,8 where the composite wires are formed of bundles of fibers that are seen to be essentially a flattened tape shape, and an outer protective layer can also be provided 11, the bundles of fibers or chords form the protective layers and can include titanium, there is a binding material also provided with the protective layers, where the chords are formed from multiple threads, the binding material can be a thermoplastic polymer, and the method of forming the pipe is given. The reference to Glejbol discloses all of the recited structure with the exception of forming the bundles of fibers that can melt together locally to hold the two layers together. The reference to Greco discloses that it is old

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and well known in the art to form composite pipe layers of wound bundles of fibers to form yarns where the fibers used can include nylon, polyester, KEVLAR, wire or the like, where the term wire inherently would include metal wires since that is what is known in the art to be the material used to make wires, and polyethylene fibers can be wound in to allow for a second strand of different material which has a lower melting point and upon heating is softened which is considered melting and inherently would lead to the fibers of the crossing layers to locally be held together, and since the fibers are provided in a wound yarn it can be seen that areas will be untied together where the yarns do not meet, and such are formed around the periphery of the yarn, where the intersecting portions of fiber bundles will adhere to one another inherently as well. It would have been obvious to one skilled in the art to modify the fiber yarn protective layer of Glejbol by providing such with polyethylene fibers to allow such to tie the layers together by allowing for locally holding the yarn layers where the reinforcing yarns intersect one another due to the softening of the polyethylene fibers as suggested by Greco where such would insure the fiber layers stay in the proper place during assembly and use thereby making the hose inherently stronger. It is considered inherent that the combination of references would lead to a structure that inherently would allow for shear deformation between protective layers in the untied areas.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Hsu, Smith, Medell, Vansickle, Reynard, Horne, Piccoli, and Adolphs disclosing state of the art hoses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/  
Primary Examiner, Art Unit 3754

JFH